

REMARKS

Claims 1-6 are pending in this application. All of the pending claims were rejected. Claims 1-6 are currently amended. Claim 7 is new. Support for the claim amendments and new claim is in the specification at the passages discussed below with regard to the §112 rejections.

Reconsideration is respectfully requested.

Claims 1-6 were rejected under 35 U.S.C. 112 for lack of enablement. Because the claim limitations which allegedly lack support in the specification distinguish the cited references, Applicant regrets not referencing all, or at least more, passages of support in the specification. For the convenience of the Examiner, Applicant will now be even more specific in referencing the support in the specification. Regarding claim 1, the limitation at issue is using technology type to evaluate whether an alternative access point is better than the current access point. The specification states that “the notion of what constitutes a better AP takes into account the distance in Banzais, the **available data rate**, and the loading.”¹ (emphasis added) Available data rate is calculated as a function of signal strength and technology type. In particular, “the data rate is deduced based on the received signal strength **and the technology being used (i.e., in an 802.11 environment, the 802.11 mode of operation (a, b, g)).**”² (emphasis added) The specification then describes that “in an 802.11 environment, the distance **and 802.11 mode (a, b, g) are used to retrieve the expected data rate for the STA 16 from the distance_to_rate table,**” (emphasis added) an example of which is shown in **Table II in Figure 31.**³ The algorithms for performing calculations are listed at the bottom of page 53, and at page 54, line 5. Therefore, the specification explicitly teaches that (1) technology type is used to determine

¹ page 51, lines 1-2

² page 52, lines 4-6

whether the alternative AP is better; and (2) that the term “technology” refers to 802.11 modes and analogous protocols. Further, a specific example is illustrated in Table II in Figure 31.

Withdrawal of the rejection is therefore requested.

Regarding the 35 U.S.C. 112 rejection of claim 6, the limitation at issue is employing maximum potential signal strength of the alternative access points. As already noted above, the specification states that “the notion of what constitutes a better AP takes into account the **distance in Banzais**, the available data rate, and the loading.”⁴ (emphasis added) The specification further states that “the Banzai is a unit of distance derived from a measurement of received signal strength from an AP 12 operating with a known **transmit power backoff**.”⁵ (emphasis added) A specific algorithm for calculating the distance in Banzais is recited at page 39, line 3 as “distance_in_banzais = ABS [MIN [0, (**received_power** + **tpbackoff**)]].” (emphasis added) The variable “received_power + tpbackoff” is an indication of maximum potential signal strength of the alternative access point. Withdrawal of the rejection is therefore requested.

Claims 1-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over English in view of Slovin. With regard to the limitation “logic for ascertaining, by the wireless device, whether the wireless device should attempt to associate with an alternative access point operating on a second channel, the ascertaining logic employing, at least in-part, indications of signal strengths of transmissions from the alternative access point, and technology type employed by the alternative access point” recited in claim 1, the Office suggests that English teaches this at paragraphs 0145, 0149-0159, and 0164-0167. Applicant respectfully traverses. Those cited

³ page 53, line 19 through page 54, line 2

⁴ page 51, lines 1-2

passages merely use the word “technology,” but not in the same sense as the current application. Even assuming the word “technology” was being used in the same manner as defined in the specification of this application, English fails to teach using technology type to **evaluate whether an alternative AP is better than the current AP**. Paragraph 0145 simply states that English can operate with any type of wideband technology. Paragraphs 0149-0159 simply discuss advantages of impulse radio signals. With regard to use of “technology,” paragraphs 0164-0167 simply state that the APs communicate with one another using traditional communication technology. Claim 1 therefore distinguishes the cited references by reciting “logic for ascertaining, by the wireless device, whether the wireless device should attempt to associate with an alternative access point operating on a second channel, the ascertaining logic employing, at least in-part, indications of signal strengths of transmissions from the alternative access point, and technology type employed by the alternative access point” Withdrawal of the rejection of claim 1 is therefore requested. Claims 2-6 are dependent claims which further distinguish the invention, and which are allowable for the same reasons as claim 1.

⁵ page 38, lines 14-16

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

/Holmes W. Anderson/
Holmes Anderson, Reg. No. 37,272
Attorney/Agent for Applicant(s)
McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720
(978) 264-6664

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